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SUBJECT: SAUDI ARABIA -- TIP 2009 TIER 3 SHORT-TERM ACTION
PLAN

¶1. This is an action cable: please see paragraph 4.

¶2. The 2009 Trafficking in Persons (TIP) Report carries policy and programmatic implications for those countries listed on Tier 3 (i.e. those countries whose governments do not fully comply with the minimum standards for the elimination of trafficking and are not making significant efforts to do so). Under the Trafficking Victims Protection Act of 2000, as amended, (TVPA) certain sanctions, effective October 1, 2009, may be imposed on Tier 3 countries. Sanctions may be avoided if, prior to the Presidential determination on sanctions, a country makes "significant efforts" to comply with the minimum standards and the Secretary determines that the country should be reassessed off of Tier 3.

¶3. The following statement is for Post's information only. If the Government of Saudi Arabia completes the steps described below within 60 days of the TIP Report's release (by August 15, 2009) and, assuming that other efforts continue apace and there are no significant negative events related to human trafficking, G/TIP and EAP will recommend to the Secretary that she make a determination that Saudi Arabia has been found to meet the criteria for Tier 2 Watch List. If the Government of Saudi Arabia were reassessed to Tier 2 Watch List, it would no longer be subject to sanctions. If the steps below are not completed, and Saudi Arabia remains on Tier 3, the President has the option to waive sanctions, either in full or in part, if he determines that doing so would promote the purposes of the TVPA or is otherwise in the national interest of the United States. (Note: the term "sanctions" is used herein to describe sanctions defined in the TVPA, including provision for directed voting in international financial institutions (IFIs)).

¶4. Action Request: Saudi Arabia is listed as a Tier 3 Country in the 2009 TIP Report. Post is requested to approach the government to urge that it implement the following steps within the next 60 days. Department encourages Post to remind the government that, while these steps are critical in the next 60 days, continued significant efforts throughout the year will be key to next year's ranking.

¶5. Begin demarche/action plan:

The Secretary of State has determined that Saudi Arabia neither fully complies with the minimum standards for the elimination of trafficking in persons, as set forth in U.S. law (the Trafficking Victims Protection Act, as amended), nor is it making significant efforts to comply with those standards. This places Saudi Arabia on Tier 3. Within 90 days of the release of the Trafficking in Persons Report, the President must transmit to Congress sanctions determinations for countries on Tier 3; sanctions could include certain restrictions on USG foreign assistance; and negative USG votes in international financial institutions (IFIs).

During the next several months, the USG will work with the Government of Saudi Arabia and foreign country missions most

directly affected by trafficking to promote improvements in combating trafficking in persons. Based on actions taken by Saudi Arabia within 60 days of the Report's release, Saudi Arabia could be determined to have made significant efforts to bring itself into compliance with the minimum standards if it undertakes significant actions against trafficking during this time frame.

Fulfillment of the following (or other similar) steps would constitute significant efforts:

1A. Significantly increase the number of criminal prosecutions of cases involving the forced or coerced exploitation of migrant workers by Saudi employers. (Note to Post: In the event that the government is unable to arrive at an appropriate benchmark, G/TIP suggests that &significant8 means on the order of ten or more. End note)

-- Persons convicted should receive criminal penalties, including prison sentences sufficiently stringent to deter future crimes and adequately reflective of the nature of the crime. (Note to Post: Typical international standards prescribe at least four years, imprisonment as a maximum penalty. Punishments limited to administrative penalties such as bans on future hiring, fines, and payment of back-wages to victims are not considered sufficient. End Note)

1B. Take concrete steps to develop and implement a formal protocol to systematically identify all types of trafficking victims.

-- Concrete steps would include, at a minimum, articulating a policy establishing screening for victims, and training law enforcement and social services personnel in victim identification methods or assigning already trained personnel to high-risk areas.

-- Minimum sufficient victim identification procedures would include the use of social workers or other professionals trained specifically in victim identification to interview those in vulnerable groups for evidence of trafficking. Victims should not be expected to take the initiative in identifying themselves given their possible shame, fear of retribution from their traffickers, or fear of punishment by the government -- thus the need for trained personnel to interview potential victims.

-- Active measures for victim identification are particularly necessary among groups vulnerable to trafficking, including foreigners being held for deportation and women arrested for prostitution, and are most appropriate in areas where these potential victims may interface with the government, including deportation centers and police stations.

-- Ensure that identified victims of trafficking are not prosecuted, deported, or otherwise penalized for unlawful acts committed as a result of being trafficked. Offer all identified victims accommodation in government shelters or refer them to organizations providing assistance.

1C. Draft and take steps to enact a comprehensive anti-trafficking law prohibiting severe forms of trafficking, including any type of involuntary servitude.

-- Prescribed penalties under this law should be sufficiently stringent to deter and should adequately reflect the serious nature of the crime. (Note to Post: Typical international standards prescribe at least four years, imprisonment as a maximum penalty. End Note)

-- Punishments limited to administrative penalties such as bans on future hiring, fines, and payments of back-wages to employees are not considered sufficient to meet this standard.

-- Ensure that penalties for trafficking offenses involving forced labor or sexual servitude are commensurate with those for other grave crimes. (Note to Post: Commensurate penalties are generally within one to two years,

imprisonment of each other.)

¶D. Ensure that trafficking victims are not detained or punished for acts committed as a result of being trafficked, such as violations of immigration regulations.

¶E. Continue to conduct a broad public awareness campaign to inform employers of the rights of foreign workers, emphasize obligations toward foreign domestic workers and other laborers, and highlight the consequences of abusing such workers.

¶F. Take steps to reform or eliminate the current labor sponsorship system in a way to ensure that all workers, especially domestic workers, are paid in full and on-time in their contractually-obligated wages, and are provided access*without risk of punishment or summary deportation to credible legal remedies for complaints of forced labor.

¶G. Take steps to ensure the freedom of movement of all laborers, including their right to return home at any time, by allowing workers to retain their passports and by removing stipulations requiring exit visa and employer permission for a worker to exit the kingdom.

End demarche/action plan.

¶6. Post's continued assistance and efforts in the fight to eliminate trafficking in persons are greatly appreciated.
CLINTON